

Bulletin 1975-9  
Situs of Contract



The purpose of this bulletin is to advise insurers that on February 4, 1975, the Attorney General of South Carolina issued a formal Opinion relative to contracts of insurance made outside this State, but affecting lives, property or interests situate in South Carolina. In essence, the Opinion states that insurance agreements and/or contracts which pertain to and have significant impact on the public of South Carolina, with the risk involved in South Carolina, are subject to the laws of our State and the regulatory authority of this Department even if said agreements and/or contracts are delivered, signed or otherwise executed outside the borders of South Carolina. Specifically, "It is our opinion that 38-9-20 covers all contracts of insurance and that the use of the above tactics [an insurance trust situated outside of South Carolina; delivering, signing or otherwise executing insurance agreements in other states; etc.] will not allow the circumvention of the insurance laws of South Carolina." [brackets supplied] 38-9-20, [Insurance Code] says in essence that any insurance contracts covering lives, property or interests situate in South Carolina or the applications for which are taken within the State, shall be deemed to have been made within this State and are subject to the laws thereof. Your attention is also directed to SECTION 12-703.{Footnote 1} This SECTION, a part of our general Code dealing with corporations, states that the receipt of consideration of a South Carolina citizen is sufficient to constitute the act of doing business in this State. Your attention is further directed to 38-9-20, [Insurance Code], which states that "No policy or certificate [emphasis supplied] of accident, health or accident and health insurance shall be issued or delivered in this State nor shall any application, endorsement or rider which becomes a part of any such policy be used until a copy of the form thereof has been filed with and approved by the Commissioner" Your attention is finally directed to 38-9-360, [Insurance Code], which provides that no insurance company doing business in South Carolina may issue or deliver in this State "any policy, contract, or certificate [emphasis supplied]," until the form has been filed with and approved by the Commissioner.